

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 WESTERN DISTRICT OF PENNSYLVANIA

3 - - - -

4 UNITED STATES OF AMERICA,)

5)

6 Plaintiff,)

7)

8) Criminal Action No:

9 -vs-) 2:16-cr-00125-DWA-1

10)

11 ERIC JAMES STULL,)

12)

13 Defendant.)

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17 - - - -

18)

19 TRANSCRIPT OF PROCEEDINGS BEFORE:

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21 THE HONORABLE DONETTA W. AMBROSE

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1 The within proceedings, reported by Sherri
2 Kostante, a Court Reporter and Notary Public in and
3 for the Commonwealth of Pennsylvania, convened at
4 the United States District Court for the Western
5 District of Pennsylvania, U.S. Courthouse, 700 Grant
6 Street, Pittsburgh, Pennsylvania, before The
7 Honorable Donetta W. Ambrose on Tuesday, March 20,
8 2018, commencing at 11:50 a.m.

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10 APPEARANCES:

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1 - - - -
2 (Whereupon, the within proceedings
3 were convened as follows):

4 - - - -
5 THE COURT: Good morning. We're
6 here this morning in the case of the United
7 States of America against Eric James Stull, at
8 No. 16-125, and we are here for a sentencing
9 hearing.

10 I have not received letters on
11 behalf of the defendant; is that correct,
12 Mr. Livingston?

13 MR. LIVINGSTON: Yes, Your Honor.

14 THE COURT: I do have victim impact
15 statements, which I have read, but as I noted
16 earlier, I consider those to be evidence, so
17 we'll wait until that point in the trial when
18 I ask the respective sides if they have any
19 evidence to present.

20 With no letters, Mr. Stull, would
21 you stand and raise your right hand, please.

22 - - - -
23 (The defendant was duly sworn.)

24 - - - -
25 THE COURT: Please be seated, sir,

1 and just speak into the microphone.

2 Did you read the pre-sentence report
3 prepared by the probation office?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And did you review it
6 with Mr. Livingston?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Is there anything in
9 that report which was incorrect, or anything
10 missing from that report which should have
11 been included?

12 MR. LIVINGSTON: Judge, when he and
13 I were reviewing it last night, there's one
14 update, and one thing that I spoke to
15 Mr. Lowers about, and Ms. Smolar also. The
16 page that I'm going to refer you to --

17 THE COURT: In the pre-sentence
18 report?

19 MR. LIVINGSTON: The pre-sentence
20 report. It's on page 62, paragraph 377.

21 THE COURT: Wait a second, let me
22 get there.

23 Okay.

24 MR. LIVINGSTON: And what Mr. Stull
25 wanted to me to alert the Court is that in

1 December, his father in Arizona suffered a
2 heart attack and that he had open heart
3 surgery. That may have no bearing on any of
4 the sentencing issues; that's more of an
5 addition.

6 And then when we were talking about
7 the guidelines, the correct application of the
8 grouping rules that is in the pre-sentence
9 report -- what I'm about to say won't have any
10 bearing on the guideline range, just because
11 the offense level would otherwise be far in
12 excess of 43, but on page 57, paragraph 364,
13 the acceptance of responsibility was timely
14 and early; and therefore, that minus-two
15 should be a minus-three, but it won't change
16 the total offense level because, even absent
17 the minus-three, the grouping counts and the
18 additional units puts the total offense level
19 far in excess of 43 otherwise.

20 THE COURT: Anything you wanted to
21 say?

22 MS. SMOLAR: No, Your Honor.

23 THE COURT: And I will ask the
24 probation officer to please note those
25 amendments to the pre-sentence report before

1 it goes to the probation office. Would you do
2 that?

3 MR. LOWERS: Yes, Your Honor, I will
4 do that.

5 THE COURT: Do you agree that he's
6 entitled to a third point?

7 MS. SMOLAR: Yes.

8 THE COURT: So we should have had a
9 third point for acceptance of responsibility
10 because it was timely, and the notation about
11 his father's condition, we just want to add
12 those before the report goes to the BOP.

13 MS. SMOLAR: But I will note that
14 what he said about the grouping is correct,
15 it's not going to affect the guideline range
16 which is laid out.

17 THE COURT: I agree.

18 Ms. Smolar, is there anything, any
19 addition or modifications for the pre-sentence
20 report from the government?

21 MS. SMOLAR: No, nothing further,
22 Your Honor.

23 THE COURT: So the next thing we
24 will do is, I will announce for the record the
25 advisory guideline range that applies to this

1 case. There's a total offense level of 43. A
2 criminal history, category 1. The custodial
3 range is life. The supervised release range
4 is not less than five years to life for each
5 of the counts. The fine range is 50,000 to
6 \$250,000. I've been told that restitution,
7 although mandatory, is not at issue in this
8 case. The special assessment is \$100 for each
9 count of conviction, and there are 41 counts,
10 so it's \$4,100.

11 That is the advisory guideline range
12 I find applies to this case. Do you agree,
13 Mr. Livingston?

14 MR. LIVINGSTON: Yes, Your Honor.

15 THE COURT: Ms. Smolar?

16 MS. SMOLAR: I do.

17 THE COURT: Now we will turn to the
18 appropriate sentence to be imposed. And what
19 I'm going to do first is ask if the defense
20 has any evidence to present, any witnesses.

21 MR. LIVINGSTON: No, Your Honor.
22 I'm going to make comments, and I believe
23 Mr. Stull will address the Court.

24 THE COURT: Absolutely. I just want
25 to go over evidence first from each side, and

1 then argument, and then Mr. Stull will be the
2 final part.

3 So you have no evidence. The
4 government, I believe, does have evidence.
5 You can call your witnesses, and they can
6 testify from the podium.

7 MS. SMOLAR: Thank you, Your Honor.
8 The first witness I would call at this time is
9 Jarod Stull. He is the brother of the victim
10 in this case.

11 THE COURT: Mr. Stull, if you could
12 step up here, please, and raise your right
13 hand when you get up here.

14 - - - -

15 (The witness was duly sworn.)

16 - - - -

17 MS. SMOLAR: Your Honor, Mr. Stull
18 has provided a written victim impact
19 statement, which the government would offer as
20 Government's Exhibit A into evidence in this
21 case.

22 THE COURT: Any objection?

23 I've already read them, so if you
24 want mine, you can have them.

25 MR. LIVINGSTON: I'm just -- if you

1 have it, just so --

2 THE COURT: I have all three: Two
3 brothers and --

4 MS. SMOLAR: Two brothers and the
5 mother.

6 MR. LIVINGSTON: Right.

7 THE COURT: Two sons and wife in
8 respect to the defendant is what I meant.

9 MS. SMOLAR: Would the judge like me
10 to stay here or --

11 THE COURT: No, you don't have to.
12 He has a prepared statement, and I've read
13 them, but you can read it now. I only caution
14 you, when you're reading, make sure you don't
15 read too fast, because people have a tendency
16 to do that, and it's hard for the court
17 reporter to take down everything that's being
18 said if it's said too quickly.

19 THE WITNESS: I'll do my best,
20 ma'am.

21 THE COURT: Thank you. We'll tell
22 you to slow down if we have to.

23 THE WITNESS: Firstly, I'd like to
24 thank the Court for allowing me to speak
25 today.

1 Before I begin, despite how I may
2 feel about you, I do hope your father will be
3 all right. It's not in me to hate somebody
4 who has no involvement.

5 Truth be told, I hardly was able to
6 bring myself to write this. It took a lot of
7 effort, and I procrastinated until the very
8 last moment, but this needed done, and so here
9 I am, of my own will.

10 Today, Father, I will look you in
11 the eye and tell you exactly what I feel.
12 There are questions I have for you, though I
13 doubt you would ever answer. Answers I seek
14 from you that, if you have any shred of honor
15 left, you'll allow me to speak to you
16 one-on-one after all this is said and done,
17 that we may finally meet as men for the first
18 and last time.

19 But I digress. On to the statement.
20 This will be an account of my life and the
21 impact my father had on it as a whole, not
22 just his crimes, but his influence to every
23 part of my life. While I know this is not
24 about me, you must understand all of this
25 first to truly understand how all of this has

1 affected me.

2 I was a young boy who hardly knew
3 his father; he'd left some time ago. I can
4 vaguely recall a man with long hair and a
5 young woman on his arm, someone who built up a
6 large Lego wall for me and let me tear it all
7 down as a monster there to eat up his people.
8 We laughed. We had fun.

9 I wanted to see my father again, but
10 for some time I didn't know who he was. I
11 sometimes imagined a famous country singer as
12 my father, since I did not know my own.
13 Perhaps that might have been preferable.

14 My mother eventually tracked him
15 down, and when I was eight-years-old, I met my
16 father for the first time I could remember
17 clearly, vividly, a striking man with a
18 commanding voice, whose very presence grabbed
19 the attention of many in the room.

20 He stood impressively tall and with
21 a rigid structure that I have come to
22 associate with any man of the armed forces.
23 He had dark brown eyes with an intensity, and
24 he had a smile that, though rare, reminds me
25 so much of my own; a wish for others to smile

1 with him, to laugh, to forget the pain.

2 Of course, at the time, I knew
3 nothing of this. This was my father, the man
4 I dreamt of for so long, that I longed to
5 meet. Finally, I would know who I was. And
6 for a time, I was happy.

7 We had moved to Ohio in this time,
8 though I didn't like the idea. I was
9 beginning to settle in, and we were suddenly
10 displaced, kicked out of the home of my
11 father's friends, for reasons no one would
12 explain to me. It's only been recently that I
13 learned that it may possibly have to do with
14 accusations that he slept with their daughter.

15 Naturally, my mother defended him.
16 How could she not? He would never do
17 something like that. It was abhorrent to
18 think about. How foolish we all are when
19 faced with love, especially from one who can
20 manipulate said love.

21 We came back to Pennsylvania, and
22 that was a peaceful time. My father and I had
23 a decent relationship. While we were still
24 very unused to one another, we certainly
25 tried.

1 Fundamentally, we saw the world in
2 very different ways. I was still very much a
3 sheltered child, a mother's boy. I lacked
4 some very basic social interaction skills, and
5 this may have led to some conflict in its own
6 way, as we tried to bridge that gap, and
7 neither of us could truly reach one another.

8 Oh, we found common interests. He
9 tried to take interest in my own hobbies, and
10 shared for me his love of many finer things,
11 from blades to music, motorcycles, the fantasy
12 genre as a whole, and philosophical views of
13 the world that very much are the foundation
14 for how I perceive the world as a whole.

15 But then my father deployed to Iraq,
16 and I went through a rather rough patch. In
17 school, I was bullied constantly for my small
18 size and my lack of social skills. My point
19 never got across clearly in conversation, and
20 I was often misunderstood, and so social
21 blunders cropped up in abundance. Perhaps I
22 could blame my father for that, maybe my
23 mother, but I find the biggest fault in
24 myself. I had other traumas happen to me,
25 other scars.

1 It's now I realize I dove deep into
2 video games, books, and other activities away
3 from people in order to shield my mind from
4 these things, to escape into a world where
5 evil fell and the righteous won the day. It
6 is no one's fault; it's just how life happened
7 to play out.

8 My father returned some time later,
9 and that's where I learned the art of sword
10 play, and I found myself a natural at it. My
11 father was an incredible teacher, and I
12 flourished under his guidance. I approached
13 him about it myself, and was soon presented
14 with a blade of my own, which I hold on to, as
15 well as his, to this very day.

16 I was deadly, I was efficient, fast.
17 I could have easily beaten a man before he
18 could even make a move, and my confidence grew
19 because of it. It was a wonderful feeling,
20 one I absolutely relished in. I had a skill
21 that nobody else had, one I could be proud of.

22 I come from a long line of warriors,
23 soldiers, and men of honor. To hone my skill
24 and take my place among them was my desire, my
25 wish, but it was not meant to be, due to the

1 circumstances of my birth.

2 But because of this desire, I held
3 my father in the highest regard. He was an
4 idol to me, and I believed him to be the
5 Superman of my world. To this day, I hold
6 those who have served, and currently serve, in
7 the highest esteem, and will go out of my way
8 to shake their hand and express my gratitude
9 to them for what they have done, what I only
10 wish I could do.

11 But my childhood was not always
12 great. My father began drinking a lot after
13 he got back. It wasn't always a bad thing.
14 Sometimes he'd just get drunk and want to
15 spend time with me. In those moments, I grew
16 closer to him, because he had a hard time
17 opening up to people, and in those moments, I
18 believe he let his guard down, and some of the
19 few times he would tell me, his son, he loved
20 me. I craved that affection and approval; so
21 starved of it I was in my early years.

22 But even heroes have a dark side.
23 He began to get violent with my mother, with
24 my brother, with me. He was sleeping hours
25 and hours at a time, locking himself away in

1 his room. He wouldn't work. My mother had to
2 pick up the slack.

3 While he did try and instill a sense
4 of responsibility in me, he was very harsh,
5 and often I felt as an indentured servant to
6 him. I soon began to resent him. Very little
7 of my childhood I got to have left. My
8 innocence began to fall away as the violence
9 got worse and worse. Once I couldn't find the
10 blanket he wanted, one he took with him to
11 Iraq, and he beat me senseless for it.

12 Once, he threw my mother through a
13 wall. Several times he came to blows with my
14 brother. My brother, an impressive man in his
15 own right, he hasn't always walked the
16 straight and narrow, and I believe he still
17 has much room for growth and improvement, but
18 he was probably braver than all of us.

19 My mother and I both feared him
20 immensely. He bullied my mother more than
21 anyone. At times, my brother and my
22 grandfather were more of a father to me than
23 my own.

24 Slowly, I could no longer recognize
25 the man I once worshipped as a hero. I began

1 to see him for who he was: damaged, angry at
2 the world, a lack of empathy for others at
3 times. Of course, we eventually came to
4 understand what PTSD was, and sought help for
5 him. It took some time, but he was slowly
6 making progress, but not enough.

7 Then came the day xxxx came into our
8 lives. Her mother came to us, begged us to
9 take care of her, as she went to recover in
10 rehab for her drug addiction. We hadn't seen
11 her in months. She disappeared shortly after
12 xxxx was born, biologically my cousin.
13 Immediately, my father asked: Where is the
14 baby?

15 And so an arrangement was made. All
16 of us thought he had done it out of
17 compassion, love, a desire to care for this
18 child and give her a safe environment. How
19 foolish we are when faced with the guise of
20 the wolf.

21 But he seemed to slowly get better
22 and better and better. She was good for him.
23 He was softer with her than with us boys.
24 Still he fought and drank at times, but the
25 nightmares lessened, and he began to come back

1 to us.

2 What was once just to be a temporary
3 six-month arrangement turned into a lifetime
4 commitment, and I got the little sister I had
5 once begged my mother for. My family was
6 complete; broken in some ways, damaged in
7 others, but we slowly began to come together.

8 My father and I didn't always see
9 eye to eye, and we often clashed as I got
10 older. Eventually growing the spine my mother
11 and brother had, I was stronger than I once
12 was, physically and in spirit, I could weather
13 the storm a little better. We nearly came to
14 blows several times as life went on.

15 Eventually, my grandmother died. I
16 moved out to live with my grandfather and take
17 care of him, but also to get away from my
18 father, who I had very nearly gotten into a
19 fistfight with, and had only backed down after
20 my grandfather threatened to blow his head off
21 with a shotgun.

22 Our relationship got a little better
23 after that, now that we weren't always in each
24 other's faces and didn't see each other all
25 the time.

1 Throughout my life, though, I felt a
2 jealousy towards my sister. She received far
3 more love and attention from my father than
4 even I, his own flesh and blood, had gotten.
5 He was kinder to her.

6 At times I felt I was a
7 disappointment to him, because I wasn't
8 exactly like him and he did not approve of all
9 of my habits, not to mention that he didn't
10 view those of a non-heterosexual orientation
11 very fondly, so I hid from him my sexuality.
12 I never came out to him, as my brother did. I
13 saw how filled with contempt he was for my
14 brother after that.

15 Our relationship improved even more
16 after I moved in with my fiancée and started
17 school. We talked, we laughed, we joked, and
18 slowly I began to forgive him of his sins. I
19 wanted to bridge that gap. I wanted to have a
20 relationship with my father.

21 Throughout my life, no matter how
22 absolutely screwed up things got, no matter
23 how dark, no matter how miserable and close to
24 killing myself I got -- once, very nearly
25 doing so -- I never believed my father was

1 capable of the crimes he has committed.

2 He wasn't perfect, but he was the
3 knight of our family, the hero, the dragon
4 slayer, the banisher of monsters. He would
5 tear apart anyone who dared think they could
6 do something like that to his daughter, and he
7 played the part well. Even as he carried out
8 his dark desires in secret, he would act angry
9 when seeing such stories on the news.

10 Yet there were signs of his betrayal
11 that only now do I wish I had paid closer
12 attention to, things that I found very odd at
13 one point or another, but merely believed to
14 be my own paranoia, resulting from my own
15 scars, similar to my sister's, though lasting
16 nowhere near as long.

17 How he looked at her sometimes, how
18 he absolutely loved to play with -- sorry.
19 How she absolutely loved to play dress-up for
20 him and show off new clothes she'd just gotten
21 for him, how she spent such an incredible
22 amount of time with him, how she still slept
23 in the same bed as him.

24 The last, you might say, was the
25 biggest red flag and should have been obvious,

1 but I must point out that she slept in my
2 parents' bed with them since she was two years
3 old. She had terrible nightmares when she
4 first came to us. And then when we realized
5 she soothed his, like a child with a teddy
6 bear, we were happy to let them stay together.
7 It helped them both, and xxxx needed a loving
8 father, her own having abandoned her.

9 Never did we know what he was doing
10 to her. Never did we ever truly suspect what
11 he was: a mimic, a fake, a wolf in sheep's
12 clothing. Had we known then, my father would
13 have very likely already been dead. I can't
14 deny that I've entertained the thought on many
15 occasion, taking his life and slaying the
16 monster that's plagued our lives, tainted our
17 memories and hearts.

18 Killing you, Father, might be my
19 greatest pleasure, but one I'll not carry out
20 even if I was to be given the chance, because
21 that would be too easy for you, that would be
22 giving you the release you want from your
23 prison. No. You'll stay and suffer for what
24 you've done.

25 I will continue to better myself and

1 distance myself from the blood of the beast
2 within. Anger, hurt, betrayal, rage,
3 depression, suicide, worthlessness, all of
4 these things I've struggled with since your
5 incarceration.

6 For so long I wondered why you
7 didn't want me, why I wasn't a good enough son
8 for you. Now I realize, I just wasn't
9 something you could get off on; hence, your
10 only half interest in me. You fooled me, you
11 fooled us all.

12 But you have strengthened us all as
13 well. Through the fires of your misery and
14 manipulation, we have all been tempered. In
15 the hammer strikes of your cruelty, we have
16 been forged. We are stronger than you now,
17 and you cannot hurt anyone anymore.

18 The bill comes due someday, Father;
19 yours came due. No longer are you the
20 impressive figure you once were, with the
21 commanding voice, and presence that grabbed
22 the attention of the room. Now we see the
23 demon for what it truly is: greedy, scheming,
24 but also frail and cowardly without its
25 leverage. No longer do you even look like you

1 could hold your own in a battle.

2 I'm fairly certain I could carry out
3 my vengeance easily, and that is satisfaction
4 enough, because I can look you in the eye and
5 call you the pathetic, spineless dog you truly
6 are, and you're powerless to stop me. Nothing
7 you can do can harm me anymore, harm my
8 brother anymore, harm my mother anymore.

9 You can't hurt xxxx anymore. She's
10 free of you, Father. And she's doing
11 amazingly on her own. She's got a bright
12 future, one you'll never see, one you'll never
13 darken again.

14 I will never forgive you for what
15 you've done. But I will thank you for making
16 me as strong as I am now, for making me aware
17 of the darkness in my own heart, and the fear
18 of turning into you, because now I focus on
19 bettering myself and mastering myself, finding
20 peace within myself.

21 I struggle with my doubt, and I walk
22 a very narrow path, but I will be the better
23 version of you, with your wit, intelligence,
24 and charm, but none of your cruelty. My
25 family is my charge, and I will be their

1 protector. I will purge your darkness from my
2 heart, and I will be the knight you failed to
3 be. Just like Smaug, you fell because of
4 arrogance and underestimating those around
5 you.

6 If you have even a small piece of
7 humanity left, then you will do two things:
8 You will fight to survive in there, endure,
9 and live out your days until you die; and you
10 will answer for me one question when I come
11 asking: What does the blue sky mean to you?
12 You said once you'd tell me when I was old
13 enough. I want to know. But if you choose to
14 run instead, then that will be the end, and
15 I'll have my answers either way. May you
16 find peace.

17 THE COURT: Mr. Livingston, do you
18 have any questions of Mr. Stull?

19 MR. LIVINGSTON: No, I don't, Judge.

20 THE COURT: Thank you.

21 Ms. Smolar?

22 MS. SMOLAR: Your Honor, at this
23 time, the government calls the victim's other
24 brother, Travis Lemley.

25 THE COURT: Mr. Lemley, would you

1 step forward, please.

2 - - - -

3 (The witness was duly sworn.)

4 - - - -

5 THE CLERK: Can you state and spell
6 your name for the court reporter.

7 THE WITNESS: Yes. It's Travis,
8 T-R-A-V-I-S, Lemley, L-E-M-L-E-Y.

9 Good afternoon, Your Honor. My name
10 is Travis Lemley. I am the oldest of my
11 mother's three children, and the oldest
12 brother of the defendant's victim. I would
13 like to thank you for the opportunity to
14 address you in court today as a voice for my
15 family.

16 For 25 years, I called the defendant
17 my dad, a man who I thought was a hero, a
18 fighter, and a protector. I considered him
19 and thought of him as a man who, even with his
20 shortcomings, could do no wrong. I was the
21 one who was wrong.

22 For ten years, from the time my
23 sister was less than two years old up until
24 the day of his arrest, the defendant had been
25 molesting, raping, and sodomizing my innocent

1 sister, a child he swore to protect from the
2 demons of the world, when he, in fact, was a
3 true demon in our home.

4 On April 29th, 2016, the person that
5 I knew as my dad, in my mind, had died. He
6 vanished in the blink of an eye, but not
7 without leaving a trail of pain and heartache
8 behind him. We realize that there is such a
9 thing as a wolf in sheep's clothing, and he is
10 sitting in this courtroom today.

11 Rather than being her hero and the
12 one saving her from all that could hurt her,
13 he was the one hurting her the most. He
14 threatened her by telling her that she would
15 be returned to her biological family and that
16 she would never see the members of our family
17 again. He used that to keep her quiet and not
18 tell us what was happening while we were away.
19 He is the definition of a monster.

20 Your Honor, the man sitting in the
21 defendant's chair will attempt to tell you
22 that this is a result of posttraumatic stress
23 disorder, that he was, quote, unquote, trying
24 to figure out how to make it stop and get
25 help. But none of that is true.

1 When the topic of posttraumatic
2 stress disorder would come up, time and time
3 again he would deny having any symptoms or
4 form of posttraumatic stress disorder. I know
5 men and women with PTSD; this is not what they
6 do. They do not commit horrible acts of this
7 nature. I urge you not to allow the defendant
8 to stigmatize hundreds and thousands of men
9 and women who have worn, and are currently
10 wearing, the uniform of our armed forces, who
11 struggle each and every single day with PTSD.

12 The monster you see sitting in
13 shackles and a prison jumpsuit is just that:
14 a monster, a coward, a lowlife. He has no
15 remorse for what he has done. The only
16 sadness that he feels is for himself, because
17 he was caught and now must face the rest of
18 his life behind bars, walls, and barbed wire
19 fences of a prison.

20 Eric, during your sentencing in
21 state court, I read another statement similar
22 to this. Do you remember? I spoke to the
23 Army Core Values that you took an oath to
24 defend and live up to. You may remember
25 hearing the following:

1 Loyalty: Rather than being loyal to
2 his country and fellow soldier, your only
3 loyalty was to yourself.

4 Duty meant you were to fulfill your
5 obligations. But your main obligation was to
6 be a protective, loving, and caring dad; yet
7 you failed to do so.

8 Respect: Treat people as they
9 should be treated. But instead you degraded,
10 humiliated, and belittled us because you
11 thought we were beneath you.

12 Selfless Service meant that you put
13 others before yourself and that it was larger
14 than just one person. But instead you chose
15 to be selfish and only care about yourself.

16 Honor: Were your actions honorable?
17 Were you living up to the Army values in your
18 daily life?

19 Integrity means to do what is right,
20 both legally and morally. Your actions and
21 crimes were both indicative of illegal and
22 immoral behavior that goes against these
23 values.

24 Personal courage means to stand up
25 for, and act upon, the things that you know

1 are honorable.

2 The things that you did were the
3 exact opposite of what you swore to. You
4 swore to protect against all enemies, both
5 foreign and domestic; yet instead, you became
6 the domestic enemy. You turned your back on
7 everything you took an oath for, and took it
8 to protect. Do you remember hearing these
9 words?

10 Do you remember the letter that you
11 wrote to my mother, using her maiden name,
12 where you specifically wrote to my mother to
13 read to me the following, quote: As for your
14 sons, I have nothing to say, except Travis
15 knows nothing of honor and integrity. At
16 least I never stole from my parents. I was
17 sick when I did what I did. What's his
18 excuse? As for Jarod, grow up and leave off
19 the stupid video game crap. Other than that,
20 good luck, end quote.

21 My guess is that you'll say you
22 don't remember or you forgot. In your own
23 words from when I was a kid, quote: Oh, I
24 forgot. How convenient. How do you forget
25 something you said or did that easily?

1 The only difference is that you're
2 not getting slapped in the back of the head
3 for forgetting like we did.

4 Well, let me fill you in on
5 something that you may have forgotten. I have
6 made amends for what I did. I was sick. I
7 was bound by addiction to heroin, which I have
8 now been clean and sober for, for eight years,
9 without relapse. Jarod and I are both engaged
10 to be married to our beautiful soon-to-be
11 wives. We are both living on our own, with
12 great jobs and in our own homes.

13 Where does that excuse you of your
14 wrongs? You say that you were sick, but are
15 you really comparing my past to your present?
16 You are a narcissist, a sociopath, a monster.

17 You once said, quote, it is not
18 fair, when speaking of your sentence. But
19 allow me to ask you this: How is this fair to
20 xxxx? When did she ever deserve the vile and
21 unspeakable acts that you did to her? How
22 many times did she beg you to stop and you
23 refused? When did you ever think that you
24 wouldn't get caught? Did you really think
25 that you could go through your whole life and

1 never pay for what you did to her?

2 No, I don't expect any answers.

3 Beginning with the day of his arrest
4 and up to now, Your Honor, our family has
5 gotten stronger. We have gone to counseling,
6 began new jobs, continued education, et
7 cetera. In the wake of this tragedy, we have
8 become a more united family, both more alert
9 to the things going on around us, and
10 supporting each other more than ever.

11 We have received letters, messages,
12 and phone calls of immense support since this
13 was first discovered. We have realized that,
14 while not everyone may support us, those who
15 do only want to help us heal and get even
16 stronger.

17 Though this is something my sister
18 will never, quote, unquote, get over, as he
19 has stated, due to her youth, my sister is
20 resilient. My sister is strong, and she is
21 courageous. She has finally been able to face
22 each day knowing that the threat and the
23 horror that she endured for ten long years is
24 finally over. I've watched her grow stronger,
25 be happier, smile more, and in general, she

1 loves life again.

2 My sister is a straight A and B
3 student, and a member of the Junior National
4 Honor Society. She has been selected for
5 possible admission to the California
6 University of Pennsylvania Upward Bound
7 program.

8 She has not allowed this monster to
9 defeat her or break her spirit, because she no
10 longer fears for her safety. She knows that
11 she will never be subjected to that torture
12 and horror again in her life. She will be
13 like a phoenix rising out of the ashes, for
14 the past ten years are the ashes that she has
15 already risen so highly above.

16 My mother, the woman who swore that
17 he was worth saving, and thought hung the
18 moon, has found a new sense of purpose. She
19 has begun a new career, a secure life, and she
20 is getting stronger each and every day. She
21 has us, her three children, her two
22 daughter-in-laws, and my son, her grandson, to
23 love her, encourage her, and empower her. You
24 can no longer tear her down and belittle her,
25 for she now knows her worth, something you

1 never showed her.

2 We are a family of fighters, and we
3 will not let this knock us down. When all
4 bets are on the table, we will come out on
5 top. We will not let this defeat us, for we
6 will prevail.

7 Today, as I stand here in this
8 courtroom, I know that we will get through
9 this, that we will never forget what was done
10 to my little sister, but more than anything,
11 we will find solace in knowing that her
12 attacker will never be able to attack her
13 again.

14 It is my sincere hope and prayer
15 that you, Eric, will never see the light of
16 day from the outside of the confines of a
17 prison ever again. I hope and pray that the
18 Pennsylvania Superior Court judges can see
19 through your facade, bogus blatant lies, and
20 fake crocodile tears, and deny your appeal
21 time and time again, as we already know that
22 you have filed one.

23 Our family will be eternally
24 grateful for the work of the State Police
25 Cyber Crimes Unit -- Trooper Matthew Haslett,

1 retired Corporal Goodyear, and retired
2 Corporal Roush -- for their part in the
3 investigation and arrest of this individual.

4 We thank the United States
5 Attorney's office for all their hard work in
6 making sure that these crimes don't go
7 unpunished, the Greene County District
8 Attorney's office, and Victim's Advocate
9 Ms. Rumsky for always talking us through
10 everything and being our light at the end of
11 the tunnel.

12 And lastly, we thank the counselors
13 who have sat with us and talked to us over the
14 last two years as we continue to strengthen
15 ourselves mentally and emotionally. We will
16 never forget any of you for all the work that
17 you do.

18 Today, Your Honor, I ask that you
19 sentence Eric James Stull, the monster who
20 thought that he could tear us down and break
21 us, the person who committed these unspeakable
22 acts against an innocent 13-year-old child for
23 the last ten years, the maximum sentence that
24 the law allows. Our hope is that this person
25 will never see the light of day outside the

1 confines of a prison ever again.

2 I thank you again, Your Honor, for
3 allowing me to address the Court today as a
4 voice, an advocate, and a true protector for
5 my sister.

6 THE COURT: Do you have any
7 questions, Mr. Livingston?

8 MR. LIVINGSTON: No, I don't, Judge.

9 THE COURT: Thank you, sir.

10 MS. SMOLAR: Your Honor, at this
11 time, the government calls the victim's
12 mother, Mona Lemley Stull.

13 - - - -

14 (The witness was duly sworn.)

15 - - - -

16 THE CLERK: Can you state and spell
17 your name for the court reporter.

18 THE WITNESS: Mona, M-O-N-A, Lemley,
19 L-E-M-L-E-Y, Stull, S-T-U-L-L.

20 Good afternoon, Your Honor. Thank
21 you for giving us an opportunity to speak
22 today.

23 For ten years, my daughter was
24 silenced. She had no voice, led to believe
25 that no one would listen to her, brainwashed

1 into believing that she would be questioned,
2 that no one would take her allegations
3 seriously. She now knows all this to be
4 false. Today, her brothers and I are her
5 voice, and she will not be silenced any
6 longer.

7 For 25 years, I was married to the
8 man that sits in your courtroom. He was my
9 world. He was my soulmate. He was my hero.
10 He was the man that I planned to spend my life
11 with, grow old with, watch our children find
12 their paths in life and begin new journeys
13 with. We were going to watch our
14 grandchildren play as we sat on the front
15 porch together. He was the dad and father to
16 my children. He was my forever love.

17 I would often wonder how someone
18 like me could be lucky enough to have such a
19 handsome man, this soldier, this combat
20 veteran, actually love me, to have him in my
21 life, to share my hopes and dreams with. I
22 often questioned, when he would look at me,
23 what did he see. I was so proud, and I would
24 fall in love each time I saw him in his
25 military uniform.

1 Now I question every word he ever
2 said to me, every compliment he ever gave,
3 every poem he ever wrote. I question 25 years
4 of marriage, and believe now that I was just a
5 decoy to hide his perversion, that he only
6 kept me around to camouflage his deceptive
7 practices, to keep anyone from suspecting what
8 he was doing and what he was capable of.

9 My children and I were a well
10 thought-out plan to fool everyone into
11 believing that he was something other than the
12 monster he truly was, a monster capable of
13 committing such acts against a child.

14 When we brought xxxx into our home,
15 I wasn't sure that I could raise another child
16 due to a few health issues and the fact that I
17 was the only one working at the time. I
18 wasn't sure that I could raise a little girl
19 since I was so used to the boys. I doubted my
20 ability in being able to give her the time and
21 attention she needed and deserved.

22 But after a little thought, I felt
23 that this was our second chance, to make
24 better parenting choices, to raise this child
25 differently. She needed us, and we needed

1 her. She was the puzzle piece that our family
2 had been missing. We now felt whole.

3 It became clear that xxxx eased
4 Eric's nightmares. She could get him to go to
5 the doctor, take his medication, and she was
6 the reason he kept his anger in check. She
7 was good for him. Together, she and I were
8 working on bringing him back from a war zone
9 that plagued his heart and haunted his dreams
10 for so many years.

11 Eric wanted a little girl, something
12 that I was unable to give him naturally. He
13 wanted a daughter. Now I know why.

14 On 29 April 2016, the world I
15 thought we were living in crashed down around
16 our feet when we found out that my daughter
17 had been molested for the ten years that she
18 had been living with us.

19 Within a week of her coming into our
20 home, Eric Stull, the man that she adored and
21 loved, the man that was to protect her from
22 everything in this life, the only man that she
23 knew as dad, began molesting this child, this
24 baby. When he photographed and/or videotaped
25 himself raping her for the first time, she was

1 not even two years old.

2 She needed to be loved and
3 protected, needed to know that she was safe
4 and secure, needed to live a life of no more
5 rejection, but instead was tortured and
6 threatened by someone that was supposed to
7 take care of her.

8 Because of what she had been through
9 before she came to live with us, he was able
10 to manipulate her into keeping his abuse
11 quiet. He groomed her into believing that
12 what he was doing to her was okay, that it was
13 normal, and that he loved her.

14 Your Honor, I will not tell you of
15 the losses he has caused. He will not win or
16 gain any pleasure in believing that he and his
17 crimes against my child could tear us down or
18 break us.

19 I will tell you that my children and
20 I have become stronger. We have a support
21 team that stands with us each and every day.
22 We rely on each other more, and we have come
23 together and become closer through this.

24 Eric Stull has already appealed the
25 state sentence, and lost, but continues to

1 appeal to the higher courts. He feels that
2 Judge Dayich was too harsh in his sentencing,
3 citing cruel and unusual punishment. He
4 doesn't think about the cruel and unusual
5 punishment my child endured for ten years from
6 him. He doesn't think about the cruel and
7 unusual punishment that my child continues to
8 endure not only from others, but within her
9 own mind, heart, and soul.

10 Now realizing that you will spend
11 the rest of your life in state prison, I would
12 imagine that the 20-year plea deal offered by
13 the assistant district attorney, and declined
14 due to not being fair, is looking pretty good
15 right about now, huh, Eric?

16 He is also upset that he has been
17 deemed a sexually violent offender because he
18 will not be able to have access to classes and
19 programs that are offered in prison. That
20 should have been something to think about
21 before he raped a baby.

22 Classes and programs? Are you even
23 kidding me? It's all about him, his losses,
24 his comfort, him not being able to have access
25 to things.

1 What about my child, my children?
2 Does he ever think about his actions against
3 her? Does he ever think about how this will
4 affect her as she gets older? Does he think
5 about how his crimes affected my sons, how
6 they blame themselves for not being able to
7 protect their baby sister, how they criticize
8 themselves because she didn't come to them to
9 tell them what their father was doing to her?
10 I doubt it.

11 His only concern is, and has always
12 been, his needs, his gratification, his
13 pleasure, his desire; nothing or nobody else
14 matters.

15 In an impact statement I read to the
16 Commonwealth Court, I said that I was thankful
17 for no hate, that I couldn't look at my
18 youngest son and hate his father. I have
19 learned hate toward this man, this person,
20 this monster.

21 I must congratulate you, Eric, on
22 the way you addressed the letter to me and
23 xxxx after your sentencing. Using my maiden
24 name was ingenious. Still trying to control
25 her from jail -- that will never happen. You

1 have no control over her; she is stronger than
2 that. She is stronger than you gave her
3 credit for.

4 Wanting me to allow her to read your
5 words, claiming that you were going to kill
6 yourself because then the military would have
7 to pay the insurance, blaming Sergeant Reed
8 for going forward with the disciplinary
9 actions, the United States Army and the
10 supposed secret missions and experimentation
11 that you claim you were involved in, for the
12 situation and the outcome -- you caused this,
13 you and only you.

14 Wanting her to read that you will
15 check in on her from time to time after you're
16 dead -- is that how you controlled her while
17 you were in Iraq and away for work and
18 training? Did you lead her to believe that
19 you were capable of seeing and hearing what
20 she was saying and doing even when you were
21 away?

22 Oh, you were very careful in your
23 wording. You didn't actually say the words,
24 because you knew that if your letters were
25 read by others, you would certainly be watched

1 a lot closer, but those that knew you, or
2 thought they knew you, are well aware of what
3 you were saying.

4 Claiming that you will sign the
5 letter with the instrument of your death --
6 no, that was not the instrument. The grenade
7 blast that we thought you had survived was
8 that instrument.

9 A month after the blast and the TBI
10 diagnosis, your guard was down. You did
11 things that you would have never done before.
12 You shared a video. You made mistakes. You
13 forgot to read the manual that you had
14 downloaded. You forgot to cover your tracks.
15 That was the instrument of your demise.

16 Did you hope that I would be stupid
17 enough to show her the letters, thinking that
18 if she read your words she would feel guilty
19 and want to visit with you, to have her
20 comfort you and ease your mind? Did you hope
21 to get another look at her, to see your victim
22 just one more time, and to gain a visual of
23 her to keep in your head as you lay in your
24 prison cell at night?

25 You want her to visit you so that

1 she can scream and yell at you, to cuss you
2 out. She is too good for that. Her heart is
3 too precious to do that.

4 She doesn't even want to think about
5 you. You are a void in her mind. You have
6 become insignificant and meaningless to the
7 one person you wanted to be everything to.
8 You have become weak and powerless to the
9 people that you tried to control and destroy.
10 You are nothing to her. You are nothing to my
11 sons, their fiancées, and to my grandson. You
12 are nothing to me.

13 Some of the most disturbing portions
14 of that letter are where he tried to give her
15 advice about sex and boys. How dare you?
16 Warning her that the only thing that boys want
17 from a girl, how they will lie to get what
18 they want, how they will use love to
19 manipulate her to get what they want. He
20 taught her well about lies and manipulation.

21 And priding yourself on the illusion
22 that you did not take her innocence away, no
23 matter what I or law enforcement saw on the
24 videos or in the photos -- how would you know
25 that? How would you remember that detail,

1 since you claim to have blacked out during the
2 times that you molested her, videotaped
3 yourself raping her, and photographed the
4 abuse you've subjected her to?

5 Blacked out? How convenient that
6 these blackouts happened when I was working to
7 provide for our family, in the hospital having
8 a hysterectomy, taking care of ill family
9 members, caring for my father after surgery,
10 and staying in the hospital with my mother as
11 she was dying. It must have been sheer joy
12 for you when a member of my family fell ill,
13 because you knew that I would go to care for
14 them and you would have full reign on my
15 child.

16 I needed you to care for xxxx so
17 that I could do what was needed and what my
18 mother raised me to do: take care of the
19 family in her absence. You used those times
20 to abuse my baby, to threaten and brainwash
21 her into believing that she needed to be quiet
22 about what you were doing, and to feed your
23 perversion.

24 Times when she needed comfort and
25 understanding to help her come to terms with

1 illness and death, you raped, sodomized, and
2 mentally, physically, and emotionally abused
3 my child.

4 Eric Stull never complained about
5 blackouts when he would be riding his
6 motorcycle for hours upon hours, driving a
7 water truck as employment, out fishing or
8 hunting on days off. He never told his
9 doctors, the military, or civilian employer
10 about these blackouts before he was arrested
11 and charged with his crimes. I knew nothing
12 of blackouts until he made mention of it in
13 the letter he wrote to me after he was in
14 jail.

15 I will ask the questions, the same
16 three that I asked you during the sentencing
17 hearing from the Commonwealth Court. Are you
18 listening, Eric?

19 Did you purge your soul when you
20 leaned in to whisper into my beautiful
21 mother's ear as she took her last breath? Did
22 you ask her forgiveness for raping and
23 sodomizing her beloved granddaughter as she
24 lay in that hospital bed fighting for her
25 life? Did you make promises to her that it

1 would never happen again when you would visit
2 her grave?

3 Think about those questions. Gauge
4 your answers very carefully, because when you
5 face our creator on judgment day, you will
6 have to face your sins, and you will no longer
7 be able to hide from the truth. I will never
8 offer you forgiveness, but I will pray for
9 your soul as it burns in hell for all
10 eternity.

11 Honestly, Eric, you deserve to be
12 abused and tortured each and every day of your
13 miserable and pathetic life. You need to be
14 punished for what you have done to my
15 beautiful baby; not be allowed to go to
16 classes and programs. You are sexually
17 violent, and you are a predator.

18 In the words of his state lawyer,
19 Mr. Erick D. Rigby, they feel that he
20 shouldn't be labeled as a sexually violent
21 offender because he had only one victim. Only
22 one victim. Only.

23 I would believe that if the only
24 victim was this attorney's child, he would not
25 have used those words. He would want justice

1 for his child. This is my child, my baby, my
2 chosen one, my Mini Me, and I want justice.

3 What do you do when the wolf is no
4 longer outside of the door, but inside, hidden
5 in sheep's clothing, sitting on a couch,
6 eating at your dinner table, and sleeping in
7 your bed? How do you learn to trust again?
8 How do you not see everyone as evil? How do
9 you stop blaming yourself for not seeing signs
10 that weren't there? How do you not believe
11 the words spoken about you on social media?

12 I used to think that I was a pretty
13 good parent. I was that mom: I wanted to
14 know where my kids were, who they were with,
15 and what they were doing. I wanted to know
16 the parents of their friends, and know that
17 they were safe. I didn't allow the boys to
18 stay overnight at friends' houses. I did not
19 allow them to go wherever they wanted.

20 I was told that I was coddling them
21 and making them momma's boys. I loosened my
22 grip, allowed them their freedom. And because
23 they believed that I no longer cared about
24 them or their lives, they rebelled. The one
25 person that they should have never had to

1 question, stopped asking where they were
2 going, who they would be with, and when they
3 would be home. They questioned their mother's
4 love and loyalty. They questioned if I even
5 cared. I failed my sons.

6 Travis turned to drug use, lying,
7 and stealing. Jarod found a different, but
8 equally dark path of destruction. They were
9 both lost in depression, anger, and feelings
10 of rejection. Travis chose drugs to deal with
11 his pain. Jarod attempted to take his life on
12 more than one occasion.

13 I told myself that I would never
14 watch my daughter go down any of those paths,
15 assuring her that I was always there, that I
16 always had her back, and that she would always
17 be safe.

18 I allowed her freedom from the
19 beginning. I allowed her to spend nights with
20 friends. I wanted her to be more social, and
21 I encouraged her to interact so that she could
22 learn acceptable behaviors and about peer
23 pressure. She loved being with her friends,
24 and the parents absolutely adored xxxx, but
25 she also loved being at home, and I was glad

1 of that.

2 In addition to weekly shopping trips
3 and doing the normal mother/daughter things,
4 she enjoyed riding the motorcycle, going
5 hunting and fishing, and watching movies with
6 her dad. She was supposed to be safe; he was
7 supposed to protect her. He was not to allow
8 anyone to hurt her, and yet he was the one
9 that was hurting her the most.

10 How do you move on? How do you stop
11 questioning the motives of everyone around
12 you? How do you not wonder if every time
13 someone hugs, shows your child some attention,
14 or is generally caring toward them, that they
15 aren't trying to lure them in and gain their
16 trust, and yours, so that they can abuse your
17 child?

18 And on the same token, how do you
19 explain to your child that when someone who's
20 been a part of her life, given hugs each time
21 they see her, suddenly shies away, doesn't
22 open their arms for that hug, and stops
23 visiting because they don't want to be accused
24 of doing something inappropriate, or seen as a
25 predator. How do assure your child that it is

1 nothing that she did wrong?

2 XXXX knows that there are people out
3 there that blame me, her brothers, her
4 grandparents, for not seeing the signs. They
5 don't understand that there were no signs.
6 And to this day, unless you know my family or
7 read the articles, you would never know what
8 she has endured in her life.

9 How do I assure my now 24-year-old
10 son, the only blood child of Eric Stull that
11 I'm aware of, that he isn't like his father
12 and will not become what his father is, when
13 for so many years we would tell him that he
14 was his father's child?

15 I used to argue with Eric about
16 Jarod looking like him. Eric would deny it,
17 claiming that he was better than Jarod, that
18 Jarod was too skinny and weak, that Jarod was
19 a geek because he enjoyed playing his video
20 games. He didn't care how his words hurt
21 Jarod. I honestly think he wanted to hurt
22 him, break him down, break his spirit.

23 Now when I look at my son and I see
24 glimpses of his father, I wish I could take it
25 all back, take back the words that are now

1 terrorizing the heart and mind of my beautiful
2 baby boy. He fears becoming a monster. He
3 loathes the blood in his veins, and the genes
4 contributed by his father. He is disgusted by
5 his temper, because he sees his father in the
6 mirror when he's angry.

7 How do I convince my son that he is
8 good and wonderful, and will never become what
9 he fears, that he needs to remember the part
10 of him that is me? How do I stop the
11 nightmares that invade my sleep? How do I
12 stop the visions that consume my mind?

13 How do I stop blaming myself? Maybe
14 if I was a better wife, a better mother, if
15 only I would not have taken him back when we
16 separated and divorced. If only I would have
17 forced him go to the therapist when he came
18 back from combat. Why did this happen?

19 Maybe, if only, should have, could
20 have, would have, how, and why; these words,
21 these questions, will haunt me for the rest of
22 my life.

23 Your Honor, please allow me to
24 direct this to the reporters that may be in
25 your courtroom today. Everybody wonders why

1 rape, incest, and abuse of this magnitude are
2 not reported. I know that I used to ask those
3 questions -- until my family became the
4 subject of newspaper articles and news
5 reports. Now I understand why so many are
6 silent, why so many refuse to come forward.

7 Who would have thought that the
8 details of a court proceeding happening 50
9 miles away would make it into the local paper
10 nearly three days later? I thought we were
11 safe, only to find out -- after my daughter
12 was in school -- that it had been published
13 again.

14 You have no idea how difficult it is
15 to have your child's name, details of your
16 life, and the stories from the newspaper
17 shared on social media, and reading the
18 opinions of others about what a horrible human
19 being you must be, that you are the scum of
20 the earth and a lowlife piece of crap.

21 Have you any idea how it feels to
22 fear for your life and your children's lives
23 because your physical address was published in
24 the newspaper? Have any of you felt the fear
25 of having to be on high alert every time a

1 strange vehicle drives by your home? Did you
2 ever read comments on social media about how
3 you should be in jail, or better yet, shot,
4 because they believe that you were involved or
5 protecting the abuser?

6 Ask me how it feels to know that you
7 can never go anywhere without your weapon on
8 your hip. Ask me what it's like not to be
9 able to relax and take your eyes off your
10 family when you are out and about, because you
11 don't know if it could be the one time that
12 someone will act on the threats of violence
13 toward your family.

14 Imagine having to console your child
15 when she comes home from school in tears
16 because another child looked up the newspaper
17 articles, or saved her abuser's mugshot and
18 takes pleasure in pulling it up and showing it
19 to her, just to be nasty or get a reaction;
20 having to warn your child that this isn't over
21 yet, that there will be another article
22 published.

23 A child that has already been
24 through hell and back has to brace for impact
25 after each and every court proceeding because

1 we know that it will be in the papers or on
2 the news, and the kids will bring it up,
3 taunt, make fun, make crude remarks, and ask
4 even more questions.

5 Have any of you considered my
6 daughter in your reporting? Do you realize,
7 or care, that you are revictimizing the victim
8 every time you put this in the newspaper?
9 Does it matter to any of you? I guess not.
10 After all, you are just doing your job, giving
11 the public what it wants, and selling
12 newspapers.

13 My children, Travis Cody Huston,
14 Jarod William Edward, xxxx xxxxx xxx, my
15 soon-to-be daughters-in-law, Mackenzie Nicole
16 and Whitney Kay, and my grandson Michael Todd,
17 and I have time to work toward a new future,
18 bigger and better than we could have ever
19 thought possible. Our lives have started
20 again, and we are making it. We will achieve
21 greatness because we believe not only in
22 ourselves, but in each other.

23 Xxxx xxxxx xxx, the name she goes by
24 now, is an amazing young lady. She has grown
25 so much in the past two years. She is

1 currently in the eighth grade, and is a member
2 of the Junior National Honor Society and holds
3 the office of vice president in that
4 organization, with a 3.6 GPA.

5 When the military stripped him of
6 his rank and retirement, my daughter lost the
7 ability to use the GI bill. My daughter will
8 go to college. She will have the education
9 that was promised to her, even if I have to
10 beg, borrow, and steal.

11 She is a color guard member and is
12 active in various clubs in school. Xxxx is
13 well liked by her teachers and peers, and is
14 very social and outgoing. Xxxx will interview
15 with Upward Bound this week, and will
16 hopefully be accepted into the program at
17 California University, where she will be able
18 to broaden her horizons and interact with
19 people from many different areas and from
20 other cultures, as she prepares and gains
21 insight into her future.

22 She volunteers, as we all do, at the
23 National Pike Gas, Steam and Horse Association
24 shows, where she is loved and supported by the
25 members, and they argue about which food stand

1 she will work in each season so that they can
2 spend time with her during the shows.

3 Xxxx is looking forward to her
4 second formal this year, and is again awaiting
5 the return of her Superman, Sergeant Clark
6 Young, from a short deployment.

7 On January 30th, we celebrated the
8 fourth anniversary of Gotcha Day, the day she
9 was adopted.

10 In addition to an already full
11 summer of band camps, parades, and
12 competitions, xxxx received the gift of a trip
13 to Florida, where she will be spending a few
14 weeks this summer with my best friend Michele,
15 her husband, and their three children,
16 learning to water ski and kayak, and also
17 touring a few of the local colleges to
18 determine if they may be a good fit for her to
19 continue her education.

20 Xxxx is now able to sleep better at
21 night. Her dreams are no longer filled with
22 terror. She no longer lives in fear of what
23 might happen. She knows that her abuser will
24 never be able to hurt her again. She knows
25 that there are so many people that she can

1 turn to, and that no matter what, no matter
2 who, no matter where, she can tell me
3 anything, and she is not alone. She also
4 knows that her momma will take on anything and
5 anyone to protect her, and I will give my life
6 and last breath to keep her safe.

7 Your Honor, she is strong, and she
8 gives me strength. I am in awe of her every
9 day of my life. Her ability to smile through
10 all of this, to achieve the grades and honors,
11 and to be able to trust others in spite of
12 what she has endured amazes me.

13 My daughter, while a little bent,
14 will never be broken. She will never be
15 silenced again. She will be an advocate for
16 those who feel powerless. She will be a voice
17 for others. The crimes against my daughter,
18 committed by Eric Stull, will not define her.
19 She is no longer a victim; she is a warrior,
20 she is a survivor.

21 THE COURT: Thank you.

22 Mr. Livingston, do you have any
23 questions of Mrs. Stull?

24 MR. LIVINGSTON: No questions.

25 THE COURT: Thank you very much.

1 Ms. Smolar, is that it?

2 MS. SMOLAR: That is, Your Honor.

3 THE COURT: I will entertain
4 argument from Mr. Livingston, then Ms. Smolar,
5 and then finally a statement from Mr. Stull.

6 MR. LIVINGSTON: Judge, let me talk
7 to him for a minute, just in terms of his
8 timing of speaking to the Court, whether
9 before or our after comments, okay?

10 THE COURT: Oh, okay. If he wants
11 to do it before, that's fine.

12 - - - -

13 (Counsel conferred with the defendant.)

14 - - - -

15 MR. LIVINGSTON: Judge, I'm going to
16 speak to the Court first.

17 THE COURT: Okay. And then
18 Ms. Smolar and then Mr. Stull.

19 MR. LIVINGSTON: Judge, when you
20 were identifying both the guideline range and
21 some of the features of what the Court's
22 sentence is expected to be, I'm going to make
23 a few comments about a few of those points on
24 the legal side first, and then comment about
25 some of the features that play into your

1 governing, both under the 18 U.S. Code 3553,
2 and then under 18 U.S. Code 3584.

3 As you know from the pre-sentence
4 report, when we've been exploring this case as
5 lawyers, Ms. Smolar and I have had,
6 unfortunately, other cases where people are
7 charged with state court offenses and federal
8 production offenses or related child
9 pornography offenses.

10 One thing that we knew from having
11 been in this forum before is that the sequence
12 of which court goes first in other times might
13 make a difference in terms of issues ranging
14 from sentencing ranges, but in this case, we
15 knew from similar cases in the past that there
16 was no legal reason why I would not advise
17 Eric Stull to participate first in his state
18 court case.

19 And when you heard about the date
20 that's mentioned throughout the pre-sentence
21 report, it's also in the indictment, that date
22 is April 29, 2016, that was the day when the
23 warrant was executed, that also uncovered the
24 images that are the ones that constitute the
25 produced images in the first 39 counts of the

1 indictment. Mr. Stull has been in jail ever
2 since that day.

3 At the beginning of our involvement,
4 he was placed in the Washington County Jail,
5 and our initial meeting was with Eric as well
6 as the county public defender of Greene
7 County, and what our advice from the very
8 beginning was, was that the very least he
9 could hope for as a sentence in federal court,
10 and therefore the very least he could hope for
11 as a sentence in state court, was a 15-year
12 minimum term of imprisonment.

13 Today, the custody having started on
14 April 29, 2016, Mr. Stull has been in jail for
15 23 months. You can see from the clothing he's
16 wearing that he came to this court for a
17 guilty plea hearing, and has remained in
18 marshal's custody in the Allegheny County
19 Jail, but he was routed in from SCI Fayette.

20 He's been sentenced by a
21 Pennsylvania Court. Again, the direct appeal
22 to Superior Court has been denied. The
23 sentence that's manifest from the pre-sentence
24 report is 340 to 680 years.

25 When Ms. Smolar and I each heard

1 that number, we wondered what impact this
2 Court's sentence may have on anything relating
3 to Eric, his placement, his confinement, his
4 life expectancy. What any sentence of
5 imprisonment means, given the sequence of
6 custody, is Eric Stull is primary jurisdiction
7 of the Pennsylvania Department of Corrections.

8 Upon this Court's sentence, he's
9 already been alerted, very soon after today,
10 he's going back to Pennsylvania, and he's
11 channeling probably through SCI Camp Hill,
12 where he will be designated to a state
13 institution to serve what looks to us like the
14 balance of his natural born life.

15 At the time of his arrest, he was 48
16 years old. He's 50 years old today. And when
17 we've been talking about the medical issues
18 that are in the pre-sentence report and we've
19 been talking about his age, whatever there is
20 about mental health that we're going to be
21 focusing on in a minute, we know that 340
22 years -- Eric Stull won't live beyond 340
23 years.

24 The oddity of a guideline range of
25 life is -- we're going to be commenting in a

1 minute on what we are submitting is a sentence
2 that, in this case, may be moot. And mootness
3 is a concept that I explained to Eric Stull
4 soon after I heard 340 to 680.

5 But we're still not, you know, a
6 pointless exercise, because, among other
7 things, the reason why people can speak to the
8 Court as they did, Eric's two sons and his
9 wife, is because part of this event is for not
10 just Eric's sake, but for Eric's family's
11 sake, for the Court's sake, for the
12 government's sake. Everybody has an interest
13 in what happens to Eric Stull, including Eric
14 Stull, but not exclusively Eric Stull, so
15 those considerations govern some of my
16 comments, Judge.

17 When this case begins, and we have a
18 client that served two active tours of duty in
19 desert campaigns, we frequently are able to
20 submit information to the Court in a
21 sentencing memo, with exhibits to document,
22 that could constitute grounds for a departure
23 for military or civic or charitable
24 contributions.

25 There is no dispute that Eric Stull

1 served his country. He served in two
2 campaigns. There was some comment there
3 suggesting that PTSD was not accurately
4 diagnosed. I believe there is no cause to
5 challenge the diagnosis of the professionals
6 in that regard.

7 Commenting immediately on the
8 offense conduct, I was handling a status
9 conference in this court, and your question to
10 Ms. Smolar from the beginning is: Why 39
11 counts? And I agree with Ms. Smolar, the
12 gravity of the behavior in this case warrants
13 39 individual counts and the grouping that
14 occurs with the individual units that are
15 identified in the pre-sentence report.

16 Each of those units generates
17 enhancements based on his family ties, based
18 on the gravity of the sexual contact, based on
19 the production with the base offense level of
20 32. The phenomenal -- the craziness --
21 literally, craziness -- of what we're doing
22 here is, we will be well in excess of life
23 imprisonment. 340 to 680 years is well in
24 excess of life imprisonment.

25 Another anomaly, at least, is that

1 the Court has to frame conditions of
2 supervised release in this case. I explained
3 that to that Eric. The oddity is, because
4 he's going to be in primary state
5 jurisdiction, some of the things that the
6 Court would typically ask in terms of
7 recommendations -- when this case began,
8 blackouts that were mentioned in some of the
9 comments --

10 I watched the videos, Judge. There
11 is no excuse. There is no mitigation. There
12 is no mental illness that could mitigate in
13 any way the gravity of what Eric did to that
14 little girl from ages 1 to 11. When you think
15 about 3553(a), you're not going to get any
16 minimizing from Eric Stull or his attorney
17 about the nature and circumstances of this
18 offense.

19 Judge Hornak, a few weeks ago, in a
20 case that Jessica and I had, made a pyramid,
21 and he used first degree murder at the top of
22 the pyramid. We're right there, Judge. So
23 the oddity is, life imprisonment is a
24 guideline range sentence. Life imprisonment
25 may be moot in reality, but as we think about

1 3553, as we think about 3584, as we think
2 about 5G1.3, we know today that the principles
3 of concurrency are triggered by this case.

4 In a minute, I'm going to make a
5 number, a presentation for a number, and I'm
6 going to ask that that number be tendered and
7 considered seriously, but the number is for
8 the period that has preceded today, April 29,
9 2016 to today, rounding off that number,
10 that's 23 months. 5G1.3(b) would term that
11 23-month period an adjustment.

12 THE COURT: Right.

13 MR. LIVINGSTON: So beyond that,
14 we're talking about what in excess of that, A,
15 concurrent to 340 to 680 years, is enough but
16 not too much, sufficient but not greater than
17 necessary to address not just nature and
18 circumstance of the offense, off-the-chart
19 serious, also personal history and
20 characteristics.

21 Again, the deceptiveness that
22 manifested in the comments of those people,
23 Eric had to be deceptive to continue doing
24 this over an 11-year span, no doubt, so that
25 is an aggravating factor. Those people are --

1 again, the benefit of their counseling is,
2 nobody in that family is to blame. This man
3 is to blame. None of those people saw clues,
4 because there were no clues.

5 Whatever he manifested as being a
6 difficult father to the boys or a loving
7 father to the girl, he was still a slimebag.
8 He did something that they call being a wolf
9 in sheep's clothing. That's terrible. That
10 little girl shouldn't have to suffer that.

11 The encouraging thing that I said to
12 Eric, let your family comment on how well
13 she's doing, because you will have no contact
14 with her. That, I believe, is an appropriate
15 recommendation from the Court, that he should
16 not have contact by letter with any of those
17 people. That's going to be an issue, but I
18 think it makes sense.

19 When I heard about a letter after he
20 was sentenced in Greene County, that was news
21 to me, okay? There shouldn't be any contact,
22 given the gravity of this party. Those people
23 have demonstrated both forgiveness on some
24 plane, but hate and damnation on another,
25 that's perfectly reasonable, that's perfectly

1 sensible. This man has to cut his ties.

2 The good news is, he has
3 communication with his mother and father in
4 Arizona. Cutting ties with those people on
5 the right side of me right now just makes
6 sense for his future. Future is what we're
7 talking about now for Eric Stull.

8 340 years -- he's going to be dead
9 probably by age 70 or 80 at the latest, so his
10 life expectancy, we're talking about this
11 following number, Judge: 240 months is 20
12 years. 20 years minus 23 is 217 months. Eric
13 Stull would be 48 years old at that point in
14 time. If he's alive at that stage, which is
15 doubtful, he would still owe Pennsylvania.

16 The oddity of him being in primary
17 Pennsylvania jurisdiction is, he would only be
18 paroled at his minimum, 340 years, to a
19 federal institution, where they could do
20 things like talk about their mental health
21 programs, where they could talk about time off
22 for good behavior, where they could talk
23 about -- and this just is a crazy thing --
24 halfway house. It's just not going to happen.

25 His life expectancy right now, if

1 you say 240 and round it back with the same
2 starting date, that would be where I'm coming
3 up with that 217-month number.

4 The oddity is, the argument about
5 recommendations to the Bureau of Prisons.
6 There plainly is a need, regardless, for
7 mental health evaluation and treatment. One
8 of the things you asked at the beginning is:
9 Are there letters?

10 When we had this mitigation vision
11 for Eric Stull at the beginning of the case,
12 Jessica knows what I frequently do is, one of
13 our investigators, she gathers, and she went
14 through the trouble of gathering medical
15 records, mental health records, military
16 records, but we didn't submit them. We didn't
17 provide for a mental health evaluation.

18 Eric Stull would benefit from a
19 mental health evaluation and treatment, and
20 I'm -- the oddity is, you can make that
21 recommendation to the Bureau of Prisons, the
22 effort when he's in a Pennsylvania
23 institution -- we have had a couple cases,
24 Jessica and I, that we know conceivably where
25 the Pennsylvania Department of Corrections is

1 going to place him, whether we can make
2 efforts through those auspices for mental
3 health evaluation and treatment.

4 There was something in Mona's letter
5 to the Court that was true: Eric did attempt
6 suicide after he was sentenced. He survived
7 the suicide. It was a mistaken premise, that
8 he thought there might be insurance benefits.
9 He learned afterwards that that was not the
10 case. So we haven't noticed in any of my
11 recent time with him any suicidal ideation.

12 The good news about his placement,
13 after the Court had a hearing of a guilty
14 plea, is he's continuously been lodged in the
15 Allegheny County Jail. Mr. Lowers and I have
16 met him there twice for pre-sentencing
17 reviews, and Eric continues to receive
18 medication over there that seems to stabilize
19 his medical condition and his mental health
20 condition.

21 Because those medications are not
22 something that this Court needs to
23 specifically recommend to the Bureau of
24 Prisons, we're dealing with all of those
25 things, but ultimately, Judge, we know we're

1 at life imprisonment as the guideline range.
2 We know that life expectancy is
3 something well --

4 THE COURT: Well below.

5 MR. LIVINGSTON: -- below 340 years.
6 And from that perspective, as I tender that
7 number to you, we're dealing with multiple
8 counts. What Steve said in his pre-sentence
9 report, however you want to frame a number, if
10 individual counts of production each have a
11 30-year maximum, you could make the sentence
12 longer than 30 years by stacking, but we're
13 submitting that under the various
14 considerations, 3553, gravity of the offense,
15 Eric's own personal history and
16 characteristics, again, military service is
17 significant, but it's far in excess trumped by
18 the gravity of the behavior. It's not grounds
19 on its own for a downward departure; it is a
20 mitigating circumstance for the Court to
21 consider.

22 But the oddity is, when I said to
23 Eric, the physical condition that's recited in
24 paragraph 381, Mona's letter or comments also
25 included the business about him having some

1 2015 trauma to his head -- again, that's well
2 before the offense conduct in this case. It
3 was never a theme of our conceivable defense
4 about blackouts or diminished capacity that
5 could in any way excuse.

6 I watched the video. There was
7 consciousness, there was brutality in the
8 video. It's terrible. From that perspective,
9 we know 340 as a state court minimum may make
10 our exercises today here factually
11 insignificant in terms of his custody and
12 placement and life expectancy, but I am still
13 asking that the Court use the same 3553(a)
14 analysis, knowing that under 3584, you double
15 back to 3533(a) and figure out what the total
16 thing is, and that's the craziness, because
17 340 is greater than life, and life can be a
18 number. And the length that we're asking is
19 less than 30 years, approaching 20 years with
20 the adjustment that I mentioned for those 23
21 months. Thank you.

22 THE COURT: Ms. Smolar?

23 MS. SMOLAR: Your Honor, we don't
24 know what's going to happen with the appeals
25 in the state court, and we need the insurance,

1 at a minimum, of this case to ensure that this
2 defendant never sees the light of day.

3 I can't do any better than the
4 family of the victim in describing the impact
5 on the family, the impact on the victim.
6 These family members were extremely eloquent
7 in describing the horror upon learning that
8 the child that they had adopted was abused for
9 ten straight years by this defendant, who
10 videotaped and photographed this little girl
11 in the worst possible circumstances.

12 The facts of this case are the most
13 ugly and shocking I know I've ever seen, I
14 know my office has ever seen. There is
15 nothing like this. This defendant produced
16 over ten years' worth of graphic videos and
17 images documenting his violent sexual abuse of
18 this little girl from the time she was
19 one-year-11-months, as her mother said, not
20 even two years old -- year after year, raping
21 her, sodomizing her, torturing her, year after
22 year, until she was 11 and she was rescued by
23 this trooper sitting here, Pennsylvania State
24 Trooper Matthew Haslett, who just happened,
25 luckily, to go into that house on a search

1 warrant for child pornography, and found this
2 treasure trove of horrors, of year after
3 year of sexual abuse of this little girl.

4 In total, there are 39 videos and
5 106 images which show the defendant sexually
6 assaulting what starts out as a baby and turns
7 into an 11-year-old child. They depict every
8 enhancement, oral, anal, vaginal penetration
9 of this child over the course of her entire
10 life by this defendant.

11 In several of the videos, the
12 defendant appears to be giving the minor
13 victim something to sniff that appears to be a
14 drug. In one of the videos at least, you can
15 see her mouthing the word "ow," and appears to
16 be in pain. In another, the victim, she's
17 saying, "stop," "no, stop," and also appears
18 to be in pain. And all of these images and
19 videos are kept on his hard drive in a folder
20 labeled, "trade."

21 Now, I'm not saying that they were
22 actually traded; I don't know, we haven't been
23 able to determine that. I hope to God not.
24 But they were labeled, in a folder labeled
25 "trade," and he was sharing child pornography

1 from the Internet with other individuals --

2 THE COURT: That's how --

3 MS. SMOLAR: -- which is how Trooper
4 Haslett found him.

5 When you look at these videos -- and
6 Mr. Livingston referenced seeing them, because
7 he did sit there and look at all of these
8 videos -- it stays with you. It stays with
9 you because you see a child starting out as a
10 baby, as an innocent baby, who, ultimately,
11 over the course of all these ten years,
12 resigns herself to the conduct. You can see
13 it in her eyes, you can see it in her body
14 language, and it's devastating to watch. She
15 can't stop it, and she knows no one will help
16 her. She was a helpless child who depended on
17 the defendant for her safety and security, and
18 didn't get it. It's very hard to forget what
19 is seen in these videos.

20 This is a very real child. We don't
21 see this very often. We see child pornography
22 cases of, you know, children all over the
23 Internet, but we don't see someone actually
24 producing images and videos in our own
25 jurisdiction where we can do something about

1 it.

2 She has been irreparably hurt
3 physically and psychologically time and again
4 for a period of ten years for the defendant's
5 pure sexual gratification. This little girl
6 has been through the worst kind of hell.

7 And it is wonderful that she has
8 healed well and that her family has gotten her
9 help and that she is doing great in school,
10 all of that is extremely important, but this
11 is going to last a lifetime. She will never
12 be the happy, innocent child she could have
13 been had this not happened.

14 You've heard from the family, both
15 from her brothers and her mother, of how she
16 feels safe now, her nightmares have gotten
17 less, and she feels safe and secure in her
18 environment. The only way to allow that to
19 happen is to ensure that Mr. Stull does not
20 ever get out of prison.

21 And that's the reason for these
22 federal charges, Your Honor. We don't know,
23 we can't control what happens in the state.
24 Admittedly, this is an extremely long sentence
25 that the state has imposed, and that brings

1 risks of its own. The federal case stands
2 separately because the state case does not
3 involve production of child pornography; this
4 case does. And this is not irrelevant at all.

5 You've heard the victims'
6 statements.

7 THE COURT: So when you say -- wait
8 a minute. When you say the size brings
9 problems of its own --

10 MS. SMOLAR: Well, there's appeals;
11 there are appeals pending.

12 THE COURT: Yes, absolutely. But
13 the same would be true in our jurisdiction as
14 well.

15 MS. SMOLAR: That's true.

16 THE COURT: Okay.

17 MS. SMOLAR: That's true. But if
18 anything were to happen to that state
19 sentence, at least we have a federal sentence
20 that would run concurrent to it, that would
21 take over if anything happened in the state
22 case.

23 THE COURT: But do you think it's
24 necessary to go the whole 340 years?

25 MS. SMOLAR: Absolutely. You've

1 heard from the family. I've seen the videos.
2 I would offer the videos to the Court. There
3 is --

4 THE COURT: Does that concern you in
5 any way in the mandate to impose a reasonable
6 sentence?

7 MS. SMOLAR: Your Honor, I believe a
8 reasonable sentence is life imprisonment.
9 That is the guideline sentence in this case;
10 it's not above the guideline sentence. It's
11 the --

12 THE COURT: Then why aren't we doing
13 that, why aren't we saying life? We have to
14 express it in months, I guess.

15 MS. SMOLAR: No, we --

16 THE COURT: Is that what --

17 MS. SMOLAR: I think the
18 pre-sentence report did say life imprisonment
19 as the guideline sentence.

20 THE COURT: No, that's not what the
21 recommendation is. The guideline provisions
22 are life, yes. And I don't disagree, I really
23 don't disagree with that, I don't.

24 MS. SMOLAR: Obviously, the Court
25 has discretion in this case.

1 THE COURT: Right. I just --

2 MS. SMOLAR: What I am saying is, it
3 is extremely a unique case --

4 THE COURT: It is.

5 MS. SMOLAR: -- where you have 39
6 production counts, one distribution count, one
7 possession count, all very, very -- the most
8 serious federal offenses in the child
9 pornography realm, taking place multiple
10 years, not all at one time, over a period of
11 ten years, each year getting, frankly, worse
12 and worse, because this child knows what's
13 happening to her.

14 There is no mitigation that I've
15 heard, also, in this case, of any value.
16 There is no medical report from any doctor.
17 The reports of PTSD have been self-reported by
18 the defendant, but we have no medical reports
19 in this case. And frankly, even if the
20 defendant does have PTSD, as Mr. Livingston
21 said that hardly excuses the very deliberate
22 conduct that we see in the videos and images
23 in this case.

24 THE COURT: But, you know, I -- and
25 I'm not disagreeing with anything you've said.

1 I don't know, I have not heard from Mr. Stull
2 yet, so we'll hear what he has to say. But I
3 do look at this, and I see the -- so the
4 Greene County Court has ordered a sentence of
5 over 300 years. Okay. That's a state system;
6 we're a federal system.

7 To impose an equal sentence and then
8 impose supervised release and then impose
9 conditions of supervised release seems a
10 little off to me; not to you?

11 MS. SMOLAR: I've seen the videos,
12 Your Honor. I've seen --

13 THE COURT: Oh, no, no. It's not
14 about the conduct, I'm not talking about the
15 conduct. I'm not talking about the conduct,
16 not at all. I mean, I'm just saying, if there
17 is a guideline provision of life, then why is
18 it not just a life sentence with no supervised
19 release?

20 MS. SMOLAR: That would be perfectly
21 acceptable, Your Honor.

22 THE COURT: And is that something
23 that can be done?

24 MR. LIVINGSTON: It's a guideline, I
25 believe so, Your Honor, yes.

1 THE COURT: Doesn't that make more
2 sense?

3 MS. SMOLAR: I have not asked for a
4 supervised release at this point, Your Honor.
5 I understand where you're coming from, and I
6 totally agree with that. To me, the
7 supervised release is irrelevant. That
8 hopefully will never happen.

9 THE COURT: And I mean, I don't
10 know, we've got a direct appeal, then you'll
11 go to the Supreme Court, and they'll either
12 say yes or no, and then we start the
13 collateral appeals, and that's fine. You are
14 absolutely entitled to do that. You're
15 entitled to do that here as well.

16 MS. SMOLAR: The other thing to
17 think about is other cases of production of
18 child pornography in this circuit, because
19 we -- I understand, we do not want -- we want
20 to be sentencing Mr. Stull commensurate with
21 those cases.

22 And I did go back and look more
23 recently at some of the cases in the Third
24 Circuit. The United States versus Larkin is a
25 Third Circuit case from 2010. Certainly not

1 39 counts of production, it was far less than
2 that. The defendant was sentenced to 360
3 months' imprisonment, and that was deemed
4 procedurally reasonable. And the citation for
5 Larkin is 629 F.3d 177.

6 Likewise, I can anecdotally tell the
7 Court that recently I handled a case, the
8 United States versus George Orbin, before
9 Judge Schwab. Mr. Orbin was surreptitiously
10 recording juveniles in his home, never
11 touching them, they were not aware they were
12 being recorded like the victim in this case,
13 and Mr. Orbin has been sentenced to 30 years'
14 imprisonment.

15 THE COURT: Now, the statutory
16 provisions, however, are not life.

17 MS. SMOLAR: Well, when you stack
18 all of the production counts, it certainly
19 takes you there, Your Honor. They are 15 to
20 30 years per production count. And for the
21 distribution, they're 5 to 20.

22 MR. LIVINGSTON: Yeah, because when
23 we were dealing with each individual count of
24 production with a 15-year minimum and a
25 30-year maximum, with your point, to the

1 extent it's going to be forming your judgment,
2 it might just have to be, if you elect to do a
3 sentence greater than 30, to do the stacking
4 with a number rather than the --

5 THE COURT: Right.

6 MR. LIVINGSTON: Again, we're not
7 seeking such a sentence.

8 THE COURT: Okay. Yeah, I
9 understand that.

10 Is that it, Ms. Smolar?

11 MS. SMOLAR: Yes, Your Honor, I
12 would say that's it.

13 THE COURT: Mr. Stull, if you'd just
14 remain seated and speak into your lawyer's
15 microphone, because I think yours is not
16 working so well.

17 THE DEFENDANT: There's a lot of
18 points, Your Honor, from my former family's
19 impact statements that I would -- if I was
20 even trying to defend myself, I would contest,
21 because there were some things said that
22 weren't right. With that being said, it
23 doesn't matter, because what I did was
24 terrible.

25 I don't have a written statement

1 here, Your Honor. I had, for quite some time,
2 tried to figure out what I was going to say at
3 this time.

4 As my wife said earlier, in state
5 court, she told the Court that I was going to
6 attempt to use PTSD as an excuse for what I
7 did. I should have read the statements that I
8 wrote then, and they would have seen that I
9 had no intention of doing that. But their
10 impact statement was so devastating, I
11 couldn't speak to the judge. So what I
12 determined to do, Your Honor, was just to --
13 well, actually, let me back up just a little
14 bit, please.

15 I had one final draft written that I
16 was going to talk with my attorney with and
17 then read to you today, but after what
18 happened to my father on December 3rd, it just
19 didn't matter anymore. My father had a
20 massive heart attack on December 3rd, and for
21 a week or so, I couldn't get through to my
22 mom, which is unusual.

23 My father had open heart surgery on
24 the 8th, and they weren't sure how he was
25 going to respond until about the 11th, I think

1 that was a Monday, was when my mom finally
2 answered the phone. She didn't want me to
3 know what was going on until she knew what was
4 going to happen with me dad. When that
5 happened, Your Honor, I just threw my
6 statements out.

7 I just have some points I wanted to
8 hit. First of all, this is for the family and
9 it's for the Court, no one hates me more than
10 me; know this. No matter the outcome, one way
11 or the other, Your Honor, I do want closure
12 for the family. I do want to see them forget
13 about me, put this, to the best they possibly
14 can, behind them. I'm not asking them to
15 forgive me, because they ever can, and I don't
16 blame them.

17 The only thing I'm asking that they
18 do is, get rid of the hate inside their heart,
19 don't carry that, because hate will tear you
20 apart. One way or another, sooner or later,
21 just let it go. I will pay, and I will pay
22 every single day of my life, regardless of if
23 I ever even get mercy.

24 The other thing, when my wife was
25 talking about the motorcycle, Your Honor --

1 and I have medical documentation on it even,
2 where we discussed it with my counselor, it
3 was a form of therapy for me, actually. I
4 didn't have to think about anything.

5 I wasn't going to even say anything
6 about PTSD, other than that, yes, I had it, I
7 have it. Travis tries to say that I denied
8 it -- of course, most people diagnosed with
9 PTSD usually do deny it.

10 I tried to get through 20 good years
11 of military service so that I could leave the
12 service on my own terms, Your Honor. I didn't
13 want to file the VA claim, that my wife knew I
14 was going to get 100 percent. She filed 300
15 pages, Your Honor, front and back, of medical
16 records from one deployment. But I didn't
17 want to go through that until I got my 20-year
18 letter, even knowing, Your Honor, that getting
19 medically chaptered out of the military like
20 that would have guaranteed me 100 percent
21 disability, and that is not in dispute.

22 I did try to kill myself after
23 finding out from my attorney, the military
24 attorney that -- yes, I was sneaky about it.
25 I asked him about medical benefits. I -- or

1 not medical benefits, but I asked him, do I
2 still have SGLI, which stands for Soldiers'
3 Group Life Insurance, and he said yes.

4 I knew my court date or hearing date
5 coming from the military was -- it was coming
6 due. I didn't know what was going to happen.
7 I thought I was going to be, you know,
8 stripped of rank and kicked out of the
9 military right then and there, and I'd lose
10 everything. Through my attorney -- or my
11 military attorney tried to contact her, I
12 tried to let them know that they wanted the
13 family, my wife in particular, to speak to the
14 military review board, not in so trying to
15 make things good for me, but to secure her
16 benefits, to secure my retirement.

17 If I did get to finish filing a
18 disability claim, I would have -- regardless
19 if I got 100 percent, Your Honor, I'd only get
20 10 percent, but 90 percent of it can go in
21 escrow and it can go to pay for Jarod's
22 college, it could go and pay for xxxx's
23 college, and my wife would be well off, she's
24 not going to be hurting money-wise because
25 she's got the -- which we never even bothered

1 discussing that, because we carefully planned
2 for retirement, and I obviously destroyed all
3 of that, and I'm not denying it.

4 For the family, I want you to know
5 this: I know you hate me, but you need to let
6 go of the hatred because it will tear you up.
7 And Jarod, the rage you feel inside of you, it
8 is for me. I've discussed with my attorney
9 before coming in here about a possibility of
10 just giving you a letter and try to encourage
11 you, Jarod, to not belittle yourself or doubt
12 yourself or do anything crazy, like thinking
13 you aren't capable or good enough, like I
14 sometimes felt because of the way my dad was
15 hard on me, but I was 1,000 times worse on
16 you, and I know it, and I am sorry, and that's
17 what I was going to put in a letter to you.

18 You asked for a face-to-face. Well,
19 what I'll do, I'll put you down on the
20 visiting list, but know this: You will be the
21 only person of blood of my family that's ever
22 going to see me again, because I will not let
23 my parents come and see me. You want
24 satisfaction, you've got it, because I know
25 what I've destroyed and I know what I've lost,

1 and I know the pain and misery you've probably
2 gone through.

3 I don't know why I did what I did,
4 and I'm not trying to make any excuses for it.
5 I do wish I was dead. I do want to die. Your
6 Honor, I don't want to live in prison for the
7 rest of my life while the rest of my family
8 drops off one by one and I can't be there.
9 I've already lost one family member since I've
10 been incarcerated.

11 But I will do what it takes to
12 survive, to give the family the satisfaction
13 they want, so that they know that I suffer
14 every single day. And it's double-edged,
15 because I am aware of the pain that I caused
16 them, and I can't do anything to take it back,
17 so yes, I will suffer for that every single
18 day.

19 I know the most important thing I --
20 I'm sorry, I don't -- but that's so pathetic.
21 Damn.

22 I've been thankful to hear that
23 she's doing so well. She's incredibly
24 resilient. And yes, Your Honor, she was
25 grounding me, she was saving me. I'll give

1 you an example of how crazy she could be. We
2 used to go for motorcycle rides a lot to
3 Ohiopyle. We would have lunch and we'd walk
4 around, whatever she wanted, and we would ride
5 back to Carmichaels, we'd get Dairy Queen, and
6 then we'd go home.

7 I made a left-hand turn on Route 40
8 on the other side of Uniontown. It's an area
9 where it's real gusty, the winds were kind of
10 bad, crosswinds there. I made the turn and
11 started to go, and the wind hit so hard, I
12 honestly thought we were going to crash. I
13 mean, Your Honor, I'm going straight, the bike
14 is leaning over like this, and I'm doing
15 everything I can to keep this 900-pound
16 motorcycle from falling over, and she's
17 sitting behind me laughing. She's laughing
18 like it's funny as hell.

19 I get the bike up straight, and I
20 turned around and looked, and I was like: Are
21 you crazy? I said: We almost crashed. And
22 she goes: Yeah, but we weren't going that
23 fast. That's how full of life and spirit she
24 is.

25 There are other pictures on that

1 computer that would show a smiling face on
2 that child, but they don't mitigate or excuse
3 what I've done, I know this.

4 I ruined her dreams. I don't -- but
5 I will have it in the back of my mind, of
6 course, that because of my actions and what
7 was ever going through my damned head, of
8 course, there's the first prom that she ever
9 goes to. I was already training her to learn
10 how to drive. We'd go four-wheel driving out
11 in the woods, and she would quote the rules of
12 the road. I was supposed to be that protector
13 that they said, and I'm supposed to be the
14 father that gave her the Sweet 16, and I can't
15 do that. And graduation.

16 And the most important thing a
17 father can do for his daughter, walk her down
18 the aisle. I hope and pray that my wife is
19 capable of finding somebody who she can love,
20 who will be the man that I was supposed to be
21 and walk my daughter down that aisle.

22 Trooper Haslett is here. He knows,
23 when we were in the magistrate's office, when
24 we were discussing it, you said: You probably
25 hate me. And I said: No, I don't. I said:

1 Thank God for you.

2 My remorse isn't because I was
3 caught; my remorse is because I did this in
4 the first place. In the statement that I was
5 going read to the state, I had done the same
6 thing my wife did, I wanted to thank Trooper
7 Haslett, the state police, and everything.

8 There are other things I could say,
9 Your Honor, but it doesn't make -- I know I'm
10 supposed to be trying to defend myself now,
11 but I don't want to come off like I'm trying
12 to defend myself. I just wanted the family to
13 know, I'm aware of all the different aspects
14 of the pain. The most important thing that I
15 was going to say, Your Honor, is that I am
16 sorry.

17 But also, to the media, if you have
18 any shred of decency, that I obviously gave up
19 in my life, leave my family alone. They've
20 been -- they've hurt enough. Please just let
21 my daughter and my family heal and get a sense
22 of closure and leave them alone.

23 That's all, Your Honor.

24 THE COURT: Thank you, Mr. Stull.

25 My job today, as it is at every

1 sentencing hearing, is to impose a sentence
2 that is sufficient but not greater than
3 necessary to achieve the goals of sentencing.
4 And the law requires that I consider a number
5 of factors in doing that.

6 And first and foremost is the nature
7 and circumstances of the offense before me,
8 and I don't think there's a person in this
9 room today who doesn't believe that this is an
10 entirely heinous crime, that this is the worst
11 of these types of cases that I have seen, as
12 depicted by both Mr. Livingston and Ms. Smolar
13 in the pre-sentence report.

14 We see a lot of cases involving the
15 distribution and possession, and less
16 frequently the production of child
17 pornography, but certainly this is a crime
18 that is up at the top of the list of this
19 genre of crimes. I consider that, and that is
20 foremost in my mind.

21 I also am required to look at the
22 nature of the history and characteristics of
23 the individual before me, and that's you. And
24 I know you sit there and you say you're
25 supposed to be defending yourself, but it's

1 very hard to defend indefensible conduct, so I
2 don't think that you should feel remiss
3 because you are unable to defend this conduct,
4 because, again, it's indefensible.

5 And I understand that you've been
6 through a lot, I mean, but you did have a
7 fairly normal childhood. I know there's a
8 claim of some sexual abuse when you were in
9 third or fourth grade. But other than that,
10 you still have these parents, who are
11 apparently still in your life, in Arizona, and
12 I know you have some siblings that, at least
13 according to the pre-sentence report, are no
14 longer in your life.

15 Of course, you've destroyed any
16 contact that you can have with your wife and
17 your children. They don't want to hear from
18 you, and they have told you how they feel, and
19 that is all perfectly understandable.

20 You have had this career in the
21 armed forces that is commendable in terms of
22 having served in Desert Storm. I know with
23 the National Guard you were in both Kosovo and
24 Iraq. You know, I don't know what happens to
25 people there, I don't. I am not going to give

1 short shrift to the claim of PTSD, but I kind
2 of agree with Mr. Livingston, who says that
3 that's really no excuse, and it can't be, it
4 can't be what happens as a result of
5 posttraumatic stress disorder.

6 I know you have some depression, had
7 alcohol abuse in the past, and hopefully --
8 the medical conditions that you contend you
9 are suffering from, they all seem to be
10 related to military service in one way or the
11 other, and hopefully, you will continue to get
12 treatment for them.

13 You know, it's hard to know what to
14 say to you. I mean, you have, as I indicated,
15 committed indefensible conduct. And even in
16 your life, other than that indefensible
17 conduct, it seems to me like it was your wife
18 who was holding everything together. It was
19 she who was out working steadily as a nurse.
20 And I know you were doing some things, you
21 were driving a truck, you were doing some
22 other things, but it sounds to me like, from
23 what I read, that it was she who was the rock
24 in the house, and holding together at least
25 the economic part of it.

1 She was totally devoted to you, as
2 we can see. She loved you, and she felt
3 fortunate to be married to you, and that was
4 how she felt until all of this happened, so
5 I'm not painting her as a victim there,
6 because she did what she wanted to do. She
7 regrets that today, and I understand her
8 regret for the remarriage.

9 It's hard to know what to say to
10 you, it really is. It's hard to know what to
11 say to you, knowing what you did. In spite of
12 your military service and your sacrifices
13 there, I feel that your conduct with your
14 daughter far outweighs any benefits that I
15 might think of that you are entitled to
16 because of military service.

17 My sentence is required to reflect
18 the seriousness of this offense, and it will.
19 You have already been given some heavy, heavy
20 time, and we're on a parallel course here, and
21 everything that we do here today may be moot,
22 it may or may not, that's something that I
23 don't know and I can't really count on.

24 My sentence also is to deter you
25 from doing things like this in the future --

1 well, quite frankly, you're going to be
2 deterred by a sentence of imprisonment.
3 There's no way that you're going to be able to
4 do things like this, because you're not going
5 to be in a situation which would even allow
6 that.

7 The public, and your family
8 particularly, need to be protected from your
9 conduct, and my sentence has to achieve that,
10 to protect them, to make them continue to feel
11 safe as they feel now. If you were in the
12 federal correctional system, hopefully you
13 could be receiving some effective correctional
14 treatment. I know there are institutions
15 where sex offenders go specifically for
16 treatment. But quite frankly, I don't think
17 you're going to be in a federal prison, and if
18 you are, it's not going to be for a long time,
19 and I just don't think it's going to happen.

20 But one of the other concepts, which
21 is usually not high on my list, but it is
22 today, is to provide just punishment. These
23 are offenses which scream for just punishment,
24 and today, I'm imposing what may seem to you
25 to be outrageous, but when I hear what your

1 family says, when I hear what the government's
2 attorney says, when I look at the trooper, I
3 think a parallel sentence to what you've
4 received in state court is sufficient but not
5 greater than necessary to achieve the goals of
6 sentencing.

7 And for all of those reasons, and
8 pursuant to the Sentencing Reform Act of 1984,
9 it's my judgment that you be committed to the
10 custody of the Bureau of Prisons to be
11 imprisoned for a total time of 338 years, one
12 month, and 11 days, consisting of 20 years'
13 imprisonment at each of Counts 1 through 17,
14 to be served consecutively; 15 years at each
15 of Counts 18 through 39; and 20 years at each
16 of Counts 40 and 41, to be served concurrently
17 to each other and Counts 1 through 17, for a
18 total term of 338 years, one month, 11 days,
19 all to be served concurrently to the
20 undischarged term of imprisonment imposed at
21 Greene County Court of Common Pleas at No. 198
22 of 2016. This sentence is not a departure,
23 but it is imposed pursuant to the provisions
24 contained in United States Sentencing
25 Guidelines, Section 5G1.3(b).

1 Upon release from imprisonment, you
2 shall be placed on a term of supervised
3 release for a term of life in each of Counts 1
4 through 41, to run concurrently. Within 72
5 hours of release from the custody of the
6 Bureau of Prisons, you shall report in person
7 to the probation office in the district in
8 which you are released.

9 While on supervised release, you
10 shall not commit another federal, state, or
11 local crime. You shall comply with standard
12 conditions of supervision recommended by the
13 sentencing commission and adopted by this
14 Court, and you shall comply with the following
15 additional conditions:

16 You shall not illegally possess a
17 controlled substance. You shall not possess a
18 firearm, ammunition, destructive device, or
19 any other dangerous weapon.

20 You shall cooperate in the
21 collection of DNA as directed by the probation
22 office pursuant to federal regulations, the
23 DNA Fingerprint Act of 2005, and the Adam
24 Walsh Child Protection and Safety Act of 2006.

25 You are permitted to possess or use

1 a computer and are allowed access to the
2 Internet; however, you are not permitted to
3 use a computer or other electronic
4 communication or data storage device,
5 including a cell phone, to access child
6 pornography or to communicate with any
7 individual or group for the purpose of
8 promoting sexual relations with children.

9 You shall consent to the
10 installation of any hardware or software to
11 monitor any computer or other electronic
12 communication or data storage device used by
13 you, to confirm compliance with this
14 condition. You shall pay the monitoring cost
15 as directed by the probation office.

16 Furthermore, you shall consent to
17 periodic unannounced examinations by the
18 probation or pre-trial services officer of any
19 computer, cell phone, or other electronic
20 communication or data storage device that you
21 have access to, to confirm compliance with
22 this condition.

23 You shall consent to the seizure and
24 removal of hardware and data storage media for
25 further analysis by the probation or pre-trial

1 services officer based upon reasonable
2 suspicion of a violation of the conditions
3 imposed or based upon reasonable suspicion of
4 unlawful conduct by you. Failure to submit to
5 monitoring or search of computers or any other
6 electronic communication or data storage
7 device used by you may be grounds for
8 revocation.

9 If you have employment that requires
10 the use of a computer, you may use a computer
11 in connection with the employment approved by
12 the probation or pre-trial services officer,
13 provided you notify your employer of the
14 nature of the conviction or charge. The
15 pre-trial or probation officer shall confirm
16 compliance with this notification requirement.

17 You shall provide the probation
18 office with accurate information about your
19 entire computer system, hardware or software,
20 and other electronic communication or data
21 storage device or media, to include all
22 passwords used and the name of the Internet
23 service provider. You shall abide by the
24 provisions of the computer restrictions and
25 monitoring program approved by the Court.

1 You shall submit your person,
2 property, house, residence, vehicle, papers,
3 business, or place of employment to search
4 conducted by a United States probation or
5 pre-trial services officer at a reasonable
6 time and in a reasonable manner based upon
7 reasonable suspicion of contraband or evidence
8 of a violation of a condition of supervision.
9 Failure to submit to search may be grounds for
10 revocation. You shall inform other residents
11 that premises may be subject to searches
12 pursuant to this condition.

13 With the exception of brief,
14 unanticipated, and incidental contacts, to
15 include your place of employment and/or
16 volunteer activity, you shall not associate
17 with children under the age of 18 years,
18 except in the presence of an adult who is
19 aware of the nature of your history,
20 characteristics, and/or convictions, and
21 that's been approved by the probation office.

22 You shall participate in a mental
23 health and/or sex offender treatment program
24 approved by the probation office until such
25 time as you are released from the program by

1 the Court.

2 You shall abide by all program
3 rules, requirements, and conditions of the sex
4 offender treatment program, including
5 submission to polygraph testing, which testing
6 will continue throughout the term of
7 supervision in order to monitor and ensure
8 compliance with supervision conditions. You
9 shall be required to contribute to the costs
10 of services for such treatment in an amount
11 determined by the probation office, but not to
12 exceed actual costs.

13 The probation office is authorized
14 to release the pre-sentence report to
15 treatment providers if requested.

16 As required by federal law and the
17 Sex Offender Registration and Notification
18 Act, you shall report the address where you
19 reside, and any subsequent change of
20 residence, to the probation officer
21 responsible for your supervision, and further
22 shall register as a convicted sex offender in
23 any state where you reside, are employed,
24 carry on a vocation, or as a student.

25 You shall not enter into a rental

1 agreement and/or purchase computers, cell
2 phones, or electronic communication or data
3 storage devices without the probation
4 officer's consent.

5 You shall not make excessive and/or
6 unexplained purchases of items ordinarily
7 related to children under the age of 18
8 without the probation officer's approval.

9 You shall not photograph and/or
10 videotape any children under 18 without the
11 written consent of their parent or legal
12 guardian who is aware of your history,
13 characteristics, and/or convictions, and who
14 has been approved by a probation officer.

15 You shall not frequent and/or loiter
16 within 500 feet of places where children
17 congregate on a regular basis such as, but not
18 limited to, schools, playgrounds, children's
19 toy and/or clothing stores, video arcades, day
20 care centers, swimming pools, zoos, amusement
21 parks, or other places primarily used, or that
22 can be reasonably be expected to be used, by
23 children under the age of 18 without the
24 probation officer's permission.

25 The periodic drug testing mandated

1 by the Violent Crime Control and Law
2 Enforcement Act of 1994 is waived, as this
3 offense is not drug related, and Mr. Stull has
4 no current or past history of substance abuse.

5 The defendant cannot pay a fine. I
6 am waiving imposition of a fine. But the
7 defendant shall pay to the United States a
8 special assessment of \$4,100, payable to the
9 United States District Court Clerk forthwith.

10 It is further ordered that you
11 forfeit the following items: Seagate Free
12 Agent GO 320GB External Hard Drive, Serial
13 No. 2GE143LG, with power cord; HP Pavilion DV6
14 laptop, Serial No. CNF9253KJ3, with internal
15 hard drive and power cord; Samsung S3 cell
16 phone, Model SCH-R530X, 99000346684192, with
17 cracked screen; Canon Powershot SD1300, the
18 Serial Number is unreadable, but color is
19 blue; Samsung cell phone, Model SM-G900R7,
20 MEID: 9900047864668; 32GB Sandisk microSDcard
21 inserted in Item G; 32GB PNY microSDcard
22 inserted into Item C.

23 Now, Mr. Stull, I'm advising you
24 that you have a right to appeal this sentence
25 within 14 days from entry of judgment, which

1 will be sometime this week. If you are unable
2 to pay the cost of an appeal, you may request
3 permission to appeal without the payment of
4 costs. If you are given permission to appeal
5 without the payment of costs, you may request
6 the Clerk of Court to prepare and file a
7 Notice of Appeal on your behalf.

8 Is there anything further from the
9 government?

10 MS. SMOLAR: Your Honor, just one
11 additional term that the government would
12 request, just as Mr. Livingston --

13 THE COURT: No contact.

14 MS. SMOLAR: No contact with the
15 victim, either directly or indirectly through
16 family members.

17 THE COURT: And I will order that as
18 a condition of supervised release and also as
19 a condition of the imprisonment, no contact
20 with the victim in this case, either directly
21 or indirectly.

22 Mr. Livingston, anything further?

23 MR. LIVINGSTON: Judge, I know when
24 you were talking about jurisdiction and going
25 to the state institution next, I don't know

1 that it will help, but if you can, on the
2 Judgment and Commitment Order, whether it
3 channels to a Pennsylvania institution,
4 recommend mental health evaluation and
5 treatment for Eric Stull when he arrives --

6 THE COURT: Sure.

7 MR. LIVINGSTON: -- in a state
8 institution.

9 THE COURT: I will just -- and
10 that's all I can do is recommend. I will
11 recommend that he be deemed eligible for some
12 mental health treatment within the state
13 correctional system.

14 MR. LIVINGSTON: And with no
15 appellate waiver and no plea agreement. And I
16 don't expect -- Mr. Stull and I will talk
17 about the prospect of appeal, but I know one
18 of the things that I believe I'm required to
19 do is note whether there was anything that
20 I -- noting for this record about either
21 procedural or substantive unreasonableness of
22 the Court's sentence.

23 I know the Court, in its sentencing
24 order, cited 5G1.3(b), and my understanding
25 is, by making the sentence concurrent to the

1 state sentence, I believe the way your words
2 were spoken, it adjusts for the period of
3 the --

4 THE COURT: Yes.

5 MR. LIVINGSTON: -- 23 months --

6 THE COURT: It does.

7 MR. LIVINGSTON: -- which makes it
8 otherwise a total term of 340; is that --

9 THE COURT: Well, with the
10 adjustment, it's what I said it was.

11 MR. LIVINGSTON: Very good. I'll do
12 the math on that part. I know I had made a
13 request for what would amount to a variance
14 from the guideline range, and the one factor
15 that the Court mentioned a couple different
16 times as foremost of the Court's
17 considerations was the nature and
18 circumstances of the offense.

19 Under 3553(a), I don't believe
20 that's an accurate recitation of a rating of
21 factors, that one doesn't have any priority
22 over the others. I agree with the Court's
23 recitation of gravity, but those other
24 factors, whether it's deterrence, reflection
25 of seriousness of the offense, we're asking

1 that the Court note for the record that I
2 identify it as a procedural unreasonableness
3 factor, the reliance on nature and
4 circumstances of the offense as a foremost
5 factor.

6 MS. SMOLAR: I believe the Court
7 also referred to provide just punishment --

8 THE COURT: I think I referred to
9 all of them.

10 MS. SMOLAR: -- and all of the other
11 elements as well.

12 THE COURT: Yes.

13 So I will not note that. If you
14 want to argue that, you may, but I believe
15 that I mentioned all of the applicable
16 factors.

17 MR. LIVINGSTON: I just had -- I
18 know if I don't preserve it now, it may be
19 considered waived later.

20 THE COURT: Okay.

21 Thank you all.

22 - - - -

23 (The proceedings were concluded at 2:02 p.m.)

24 - - - -

25